Oversight Division

Committee On Legislative Research

SUNSET REVIEW

PREGNANCY RESOURCE TAX CREDITS
Section 135.630, RSMo

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Section 135.630, RSMo

Prepared for the Committee on Legislative Research
by the Oversight Division

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Committee on Legislative Research
Oversight Subcommittee

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Members of the General Assembly:

The Joint Committee on Legislative Research is required by Section 23.259 (1) (2) to conduct a performance evaluation of the Pregnancy Resource Tax Credit Program RSMo 135.630 to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The report includes Oversight's comments on (1) the sunset, continuation, or reorganization of the program, and on the need for the performance of the functions of the program; (2) the duplication of program functions; (3) the appropriation levels for each program for which sunset or reorganization is recommended; and (4) drafts of legislation necessary to carry out the committee's recommendations pursuant to (1) and (2) above.

We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates. You may request a copy of the report from the Oversight Division by calling 751-4143.

Respectfully,

Thomas Flanigan

Representative Tom Flanigan
Chairman

EXECUTIVE SUMMARY

The Pregnancy Resource Center Tax Credit program allows a tax credit for persons who make donations to local pregnancy resource centers. The credit is for fifty percent of the value of the donation. The program has an annual limit of $2 million that must be apportioned among all applicants if more than $2 million in credits are earned. The program is set to expire on August 28, 2012.

The utilization of this program has grown steadily since its inception; $563,689 credits redeemed in 2008 up to $1,107,579 credits redeemed in 2011. These amounts are below the $2 million annual cap. The average amount of credit authorized per certificates issued has been approximately $490, and is used mostly by taxpayers filing Individual income tax returns.

Oversight was unable to determine if the program generates additional donations or simply gives taxpayers an additional break for donations that they would have made regardless. Therefore, Oversight is unable to determine if the original intent of the legislation (generation of additional donations to local pregnancy resource centers) has been achieved.

At the December 15, 2011 Joint Committee on Legislative Research quarterly meeting a motion was adopted stating "that while the committee feels the information in the report is factually accurate, the committee believes that the debate on sunsets in general, including those credits in this report specifically, should be continued in the General Assembly at large and this motion does not recommend extension or termination of any tax credit contained herein."

Chapter 1

Purpose

The General Assembly has provided by law that the Joint Committee on Legislative Research will conduct a performance evaluation of a program subject to the Missouri Sunset Act. The committee shall consider the criteria as listed in Section 23.268, RSMo in determining whether a public need exists for the continuation of a program, or for the performance of the functions of the program. A sunset review is the regular assessment of the continuing need for a state program to exist. A sunset review answers the basic questions of what has happened to this program since its inception and does the State of Missouri continue to "need" the services provided by the program.

The Joint Committee on Legislative Research directed the Oversight Division to conduct a Sunset Review of the Missouri Department of Social Services' Pregnancy Resource Center Tax Credit Program, Sec. 135.630, RSMo. This report provides an update on the Pregnancy Resource Center Tax Credit Program as created by SCS for HCS for House Bill 1485 in the 2006 legislative session and fulfills the requirement as established by Section 23.268, RSMo.

Oversight's review addressed, but was not limited to the following:

1. Compiling all data related to the program since its inception;
2. Analysis of the events and changes to the program since its inception in 2007.

Scope

The Oversight Division researched the laws and activity regarding the Pregnancy Resource Center Tax Credit Program from 2007 through 2010. Analysis included a review of Department of Social Services and Department of Revenue data related to the program.

Methodology

The Oversight Division obtained information on the Pregnancy Resource Center Tax Credit Program through review of statutes, letter correspondence with the Missouri Department of Revenue (DOR) and the Missouri Department of Social Services (DOS), and interviews with DOR and DOS staff who work directly with the program.

Background

Senate Committee Substitute for House Committee Substitute for House Bill 1485 from the 2006 legislative session created the Pregnancy Resource Center Tax Credit and stipulated that the program automatically sunset six years from its effective date. The program is set to expire on August 28, 2012.

Pregnancy resource centers are tax-exempt, non-residential facilities located in Missouri. These centers assist women with unplanned or crisis pregnancies and encourage women to carry their pregnancies to term by offering pregnancy testing and counseling with emotional and material support.

Pregnancy resource centers provide cost-free, direct client services at the facility, as opposed to merely providing counseling or referral services by telephone. They do not perform childbirths or perform, induce or refer women for abortions. All medical services are provided in accordance with Missouri statutes.

The credit is for fifty percent of the value of the donation. The program has an annual cap of two million. The amount of the claimed tax credit may not exceed the amount of the taxpayer's state income tax liability for the year the credit is being claimed. Any tax credit that cannot be claimed in the tax year associated with the contribution may be carried forward and used against a taxpayer's state tax liability for four subsequent years.

To participate in the program, pregnancy resources centers must submit an Agency Eligibility Verification application and supporting documentation to the DOS to determine qualification status for the next state fiscal year. The DOS notifies pregnancy centers of their eligibility and equally apportions the total available tax credits among the eligible centers. These credits are effective beginning July 1 of each state fiscal year. If determined eligible by the DOS, the center may begin receiving contributions eligible for the tax credit year. It should be noted the centers are permitted to decline a contribution from a taxpayer. There is a minimum $100 contribution, of which 50% is tax-credit eligible. Donors can claim up to a $50,000 per tax year. The pregnancy resource center and the taxpayer must complete their portion of the Pregnancy Resource Center Tax Credit application. Applications and supporting documentation must be submitted to the DOS by the qualified center within twelve (12) months of the donation date. Applications received after one year of the donation date will be void and the right to the tax credit is forfeited. Required documentation varies depending on the type of donation.

The tax credit is also transferable. The owner may assign, transfer, sell, or otherwise convey the certificate. The new owner will have the same rights as the original owner. When a certificate is assigned, transferred, sold, or otherwise conveyed a notarized DOS tax credit transfer form must be submitted to the department within 30 days of the transaction.

The remaining allotments or tax credits are reviewed at least quarterly by DOS. If a pregnancy resource center fails to use all or some percentage of it apportioned tax credits during a predetermined period, the DOS may redistribute unused tax credits to pregnancy resource centers that have used all or most of their apportionment. Redistribution during a fiscal year will ensure that taxpayers can claim all available tax credits.

Since the inception of the program (passed in 2006 and effective for all tax years beginning on or after January 1, 2007), a total of $4,179,263 in credits have been redeemed by Missouri taxpayers. Table 1 below provides details regarding the program since its passage in 2006.

Table 1: Activity of the Pregnancy Resource Center Tax Credit Program since its inception:

Fiscal Year	Certificates Issued	Amount Authorized	Amount Redeemed	Average Credit Authorized
2007	1,186	$733,951	$0	$619
2008	2,092	$1,167,510	$563,689	$558
2009	2,577	$1,185,718	$1,309,933	$460
2010	3,708	$1,624,130	$1,198,062	$438
2011	3,729	$1,795,230	$1,107,579	$481
Total	13,292	$6,506,539	$4,179,263	$490

Source: Department of Social Services

The majority of tax credit claims were claimed against individual income tax. Table 2 below provides a breakdown of the redemptions since the credits inception.

Table 2: Credits utilized by taxpayer type:

Fiscal Year	Corporate Income Redemptions	Financial Institutions Redemptions	Corporate Franchise Redemptions	Individual Income Redemptions	Total Redemptions
2007	$0	$0	$0	$0	$0
2008	$9,314	$0	$2,636	$551,719	$563,669*
2009	$434	$1,925	$3,454	$945,931	$951,744**
2010	$6,659	$375	$9,293	$1,181,736	$1,198,062
2011	$15,172	$200	$7,050	$1,085,157	$1,107,579

*** The $20 difference compared to Table 1 is not available for breakdown.**
****The $358,189 difference compared to Table 1 is not available for breakdown.**

Source: Department of Revenue

DOR provided a redemptions-by-county breakout of the FY 2011 activity in the program. St. Louis County had the largest number of claims (428) as well as the greatest total amount of tax credits redeemed ($315,746).

Table 3: Redemptions-by-county in FY 2011:

County	Number of Redemptions	Pregnancy Resource Tax Credit Redemptions	Average Credit Redeemed
Adair	39	$10,558	$271
Boone	48	$28,061	$585
Buchanan	23	$21,042	$915
Callaway	15	$18,015	$1,201
Camden	9	$2,613	$290
Cape Girardeau	52	$17,140	$330
Cass	45	$18,079	$402
Christian	26	$19,061	$733
Clay	76	$29,780	$392
Cole	22	$3,803	$173
Dent	12	$1,145	$95
Franklin	23	$26,516	$1,153
Gasconade	8	$738	$92
Greene	75	$68,655	$915
Henry	9	$11,551	$1,283
Jackson	121	$60,861	$503
Jasper	36	$29,964	$832
Jefferson	70	$21,425	$306

Johnson	44	$21,556	$490
Laclede	46	$23,987	$521
Lafayette	8	$900	$113
Macon	17	$4,434	$261
Newton	24	$41,820	$1,743
Non Resident	20	$9,279	$464
Perry	11	$2,550	$232
Phelps	70	$21,378	$305
Platte	16	$6,175	$386
Polk	49	$25,505	$521
St. Charles	87	$45,831	$527
St. Louis County	428	$315,746	$738
St. Louis City	32	$19,363	$605
St. Francois	22	$12,033	$547
Stone	25	$10,625	$425
Taney	40	$13,228	$331
Wright	9	$2,778	$309
Other*	110	$141,383	$1,285
Total	1,767	$1,107,579	$627

***Counties with seven or fewer claims are grouped together as "other".**

Source: Department of Revenue

For the Pregnancy Resource Center Tax Credit, individuals and businesses claiming the credit must attach a copy of the tax credit certificate received from the Department of Social Services to a completed Miscellaneous Income Tax Credits Form (MO-TC), and attach those documents to the applicable Missouri tax return (See attached MO-TC form and tax credit certificate). Additionally, the Department of Social Services enters the tax credit information for each tax credit recipient in the CMS system, including the name of the recipient and the dollar amount authorized. When the Department of Revenue (DOR) receives the credit claim, DOR compares the amount claimed on the MO-TC to the available amount shown in the CMS system, and that the claimant was issued a valid tax credit certificate. If the amount claimed does not exceed the amount available in the CMS system, or the amount of the tax liability, the credit is redeemed as requested. The redemption of the credit requires two separate steps, the amount redeemed must be entered in the CMS system and in the tax processing system used to process the taxpayer's return.

Chapter 2

Criteria

The following questions required by Section 23.268 RSMo were considered and addressed by Oversight:

1) Is the Pregnancy Resource Center Tax Credit operating efficiently?

The Pregnancy Resource Tax Credit allows a donor to give to a qualified agency and receive a tax credit. The credit recipient may receive a credit equal to 50 percent of the donation up to a maximum of $50,000 per year. The total credits issued may not exceed $2 million in any fiscal year.

Based on the information received, within the scope of Oversight's review, the Pregnancy Resource Center Tax Credit Program operates efficiently.

2) Identify the objectives intended for the program and the problem or need that the program was intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for such activities.

The objective is to help fund services for women and teens with unplanned or crisis pregnancies. Many provide parenting classes, maternity clothes, diapers, and other resources that can help with an unplanned pregnancy. Some also provide counseling or educational services.

Based on the information received, within the scope of Oversight's review, the Pregnancy Resource Center Tax Credit Program achieved its purpose and objectives.

3) Complete an assessment of less restrictive or alternative methods of performing any rule or regulation that the agency performs that could adequately protect the public.

The Department of Revenue has not completed an assessment to determine less restrictive or alternative methods in relation to this program.

According to the Department of Social Services, another way to help the pregnancy resource centers would be for the state to contract for services for unplanned pregnancies. However, by using the tax credit, the centers are able to identify the needs of their communities and respond to what is needed most where they are, rather than responding to a state contract which has uniform provisions, regardless of the specific needs of each community.

4) Review the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies.

The Department of Social Services determines the eligible agencies, verifies contributions are made to qualifying agencies, and issues the tax credits.

The Department of Revenue is required to redeem tax credits claimed against taxes imposed in Chapters 143, 147, 148, and 153, RSMo.

These responsibilities and actions are not duplicated.

5) Has the agency made recommendations to the General Assembly asking for statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates?

Neither the Department of Revenue nor the Department of Social Services have requested statutory changes to the Pregnancy Resource Center Tax Credit.

6) What is the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the program?

The Department of Revenue is not aware of any complaints.

According to the Department of Social Services (DOS), the Department rarely receives complaints about tax credits. DOS works to be proactive in helping both the agencies and donors maximize the benefit they receive from the Pregnancy Resource Center Tax Credit before they submit an application. DOS works to ensure information about the credits is readily available and easily understood. Information of the DOS web site helps explain the program and helps the public understand what to expect when they apply to use the credit.

7) What was the extent to which the agency has encouraged participation by the public in making rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the program?

The Department of Revenue provides information in tax booklets and on its web site. No rules have been promulgated by the Department of Revenue regarding this program.

The Department of Social Services wrote the rules to regulate the Pregnancy Resource Center Tax Credit based on the legislation authorizing the credit. Much of the language mirrors statute.

8) What is the extent to which the agency has complied with applicable requirements of an agency of the United States or this state regarding equality of employment opportunity and the rights and privacy of individuals?

The Department of Revenue complies with laws regarding employment opportunity and privacy.

The Department of Social Services (DOS) has protected the privacy of all tax payers who utilize the Pregnancy Resource Center Tax Credit. DOS exercises equality of employment opportunity through the utilization of the State Merit System, and the people who work with the tax credit within the Department fall under the rules of the Merit System.

9) What is the extent to which the agency has complied with applicable requirements of state law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses?

The Department of Revenue complies with purchasing rules of this state. The Department of Social Services state this program requires no purchasing.

10) What is the extent to which changes are necessary in the enabling statutes of the program so that the agency can adequately comply with the criteria established in this section?

See the recommendations section of this report, page 12.

11) What is the extent to which the agency issues and enforces rules relating to potential conflicts of interests of its employees?

The Department of Revenue has issued and enforces an internal policy prohibiting conflicts of interest. No rule has been formally promulgated.

All employees of the Department of Social Services are subject to the policy for professional conduct.

12) What is the extent to which the agency complies with Chapter 610, RSMo, and follows records management practices that enable the agency to respond efficiently to requires for public information?

The Department of Revenue complies with Chapter 610, RSMo, requests.

The Department of Social Services (DOS) works with its Communications Director and Special Counsel for Administration to be responsive to all requests for public information regarding tax credits. The information available on the DOS web site helps answer many of the public request.

13) What is the effect of federal intervention or loss of federal funds if the program is sunset?

This is not applicable as the Pregnancy Resource Tax Credit Program does not receive federal funding.

Chapter 3

Comments:

Oversight reviewed a sample of the pregnancy resource center application for agency eligibility verification files and application for claiming tax credits for fiscal year 2007 through 2010 to determine whether DOS is complying with its policies and procedures. Although a small portion of the reviewed files appeared to be missing miscellaneous application information, all transactions appeared to follow DOS policies and procedures. Oversight did not have the opportunity to review all pregnancy resource center files. Therefore, Oversight cannot comment on the completeness of the files or whether DOS is complying with its policies and procedures.

Oversight is unable to determine if the Pregnancy Resource Center Tax Credit Program generates additional donations to local pregnancy resource centers or simply gives taxpayers an additional break for donations that they would have made regardless. The program is considered one of several "Domestic and Social" programs offered by the state, along with Shelter for Victims of Domestic Violence, Special Needs Adoption, Youth Opportunities, etc. This program has the potential to cost the state $2 million per year in reduced tax revenue and Oversight is unable to determine if the donations would not have been made to the pregnancy resource centers if not but for the passage of this tax credit program. Therefore, Oversight is unable to determine if an intent of the program (generation of additional donations to local pregnancy resource centers) has been achieved.

Recommendations:

Possible options available to the Missouri General Assembly include letting the program expire or extending the sunset of the program:

- First, the General Assembly could allow the program to expire in August, 2012 by taking no further action regarding this program. This option could potentially save the state up to $2 million in revenue that may be lost if the Department of Revenue redeems all available tax credits. Currently, the annual redemption amount on this program has not exceeded $1,309,933, so the annual savings resulting from the expiration of the program should not be considered $2 million. However, additional credits may be utilized on tax returns filed in FY 2012 that could approach the annual ceiling. A possible negative impact of this action could be reduced donations to local pregnancy resource centers.

- Second, the General Assembly can extend the sunset up to an additional twelve years (roughly until August 2024).

- Third, the General Assembly could possibly extend the program for a period of time less than the stated twelve years.

If the Missouri General Assembly were to allow the Pregnancy Resource Center Tax Credit to expire in 2012, taxpayers would still be allowed to make donations to pregnancy resource center of their choice; however, the state may save up to $2 million annually in reduced tax credits.

At the December 15, 2011 Joint Committee on Legislative Research quarterly meeting a motion was adopted stating "that while the committee feels the information in the report is factually accurate, the committee believes that the debate on sunsets in general, including those credits in this report specifically, should be continued in the General Assembly at large and this motion does not recommend extension or termination of any tax credit contained herein."